



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,278	07/25/2006	Thomas Kripp	3699	4868
7590 Striker Striker and Stenby 103 East Neck Road Huntington, NY 11743				
EXAMINER				
VENKAT, JYOTHSNA A				
ART UNIT		PAPER NUMBER		
1619				
MAIL DATE		DELIVERY MODE		
07/01/2011		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### **DETAILED ACTION**

Receipt is acknowledged of amendment after final and remarks filed on 6/13/11.

#### ***Claim Rejections - 35 USC § 112***

Claims 33-36, 38 and 41-51 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. This is new matter rejection.

There is no support in the specification for claim 32 wherein the auxiliary substance is perfume oils or opacifiers at page 7, second paragraph. The ingredients in the second paragraph do not match with the weight percent of the auxiliary substances at page 7 3rd paragraph. Third paragraph do not recite the weight percent for “cationic resins, lanolin, lanolin alcohols, lanolin alkoxylates and cholesterol being present in total amount of 0.1 to 5 wt% “.

This rejection is maintained.

#### ***Response to Arguments***

Applicant's arguments filed 6/13/11 have been fully considered but they are not persuasive.

Applicants' argue:

*“Page 7, second full paragraph, of the specification discloses that the auxiliary agents can include hair-care agents. It also discloses examples of hair-care agents. Page 7, third full paragraph, states that hair-care constituents may be included in the auxiliary agents*

*and that they can be contained in the composition in an amount of 0.1 to 5 wt. % each.*

*The term "hair-care agent" would be considered by one skilled in the art to be synonymous with the term "hair-care constituents".*

*Both would be considered to mean an ingredient or chemical compound with hair-care properties.*

*The examples of the hair-care constituents given in the second full paragraph on page 7 include cationic resins, lanolin derivatives and cholesterol. However these are categories of hair-care constituents, except in the case of cholesterol. Thus because of the term "each" in line 7 of the third full paragraph on page 7 of applicants' specification, each of the hair-care ingredients (constituents) in the category of cationic resins or lanolin derivatives that is present in the composition may be present in the composition in an amount of 0.1 to 5 wt. %.*

*However the term "derivatives" in composition claims often leads to their rejection as indefinite. Hence the term "lanolin derivatives" has been replaced by "lanolin, lanolin alcohols, and lanolin alkoxyates". Examples 32 and 34 provide the basis for limiting the term "lanolin derivatives" to "lanolin, lanolin alcohols, and alkoxyates". In addition, note that the term "wool grease", which is an ingredient of examples 48 to 49 is an alternative term*

Art Unit: 1619

*for "lanolin" according to Wikipedia Encyclopedia on the Internet*

“

In response to the above argument, there is no support in the specification for lanolin derivatives, which is lanolin alkoxylates. Examples 32-34 and 35-36 describe lanolin alcohols and examples 48-49 support lanolin since wool grease is also known as lanolin. There is no support in the specification for claim 47, which is “at least 0.1%”. The support is for “1%”. Therefore new matter rejection is deemed proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA VENKAT whose telephone number is (571)272-0607. The examiner can normally be reached on Monday-Friday, 10:30 AM - 9:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID BLANCHARD can be reached on 571-272-0827. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1619

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JYOTHSNA A VENKAT /  
Primary Examiner, Art Unit 1619